

RD AN No. 3704 (1924-A)
February 5, 2002

TO: All State Directors
Rural Development

ATTN: Rural Housing Program Directors and
Multifamily Housing Coordinators

FROM: James C. Alsop
Acting Administrator
Rural Housing Service

SUBJECT: Housing Preservation Grant Program
Lead-Based Paint Requirements

PURPOSE/INTENDED OUTCOME:

This Administrative Notice (AN) provides guidance to Rural Development staff on implementation of Subpart J-"Rehabilitation" of the Housing and Urban Development's (HUD) Final Rule on Lead-Based Paint Hazards in Federally Owned Housing and Housing Receiving Federal Assistance (hereinafter, the "LBP regulation") as it relates to the Housing Preservation Grant (HPG) Program. Subpart J sets out the requirements for the Agency's programs, which provide assistance for housing rehabilitation. This AN clarifies the Agency's and the grantee's responsibilities under Subpart J.

COMPARISON WITH PREVIOUS AN:

This AN provides specific guidance for HPG grantees in relation to Subpart J of the LBP regulation adopted by Rural Development in AN 3593 (1924-A) issued on December 1, 2000.

EXPIRATION DATE:
February 28, 2003

FILING INSTRUCTIONS:
Preceding RD Instruction 1924-A

BACKGROUND:

Rural Development adopted the following subparts of the LBP regulation:

- **Subpart A**--Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property
- **Subpart B**--General Lead-Based Paint Requirements and Definitions for All Programs
- **Subpart C**--Disposition of Residential Property Owned by a Federal Agency Other Than HUD
- **Subpart D**--Project-Based Assistance Provided by a Federal Agency Other Than HUD
- **Subpart J**--Rehabilitation
- **Subpart R**--Methods and Standards for Lead-Based Paint Hazard Evaluation and Hazard Reduction Activities.

These subparts replace what is presently in RD Instruction 1924-A, Exhibit H, and take precedence over what is presently in all Rural Development Instructions and Handbooks concerning lead-based paint. The requirements of these subparts are applicable to all housing constructed prior to 1978 that is financially assisted by the Agency or is being sold by the Agency.

Subpart J-"Rehabilitation" of the LBP regulation replaces guidance on rehabilitation presently in RD Instruction 1924-A, Exhibit H, and takes precedence over what is presently in all Rural Development Instructions and Handbooks concerning lead-based paint associated with rehabilitation. The requirements of Subpart J are applicable to all repair and rehabilitation activities under the Agency's Housing Preservation Grant Program. This Subpart applies to all target housing that is receiving Federal assistance. Target housing means any housing constructed prior to 1978.

The requirements of Subpart J are based upon the amount of assistance provided and are detailed in the "Implementation Responsibilities." The amount of assistance is inclusive of all federal sources, including Rural Development. Rehabilitation that does not disturb a painted surface is exempt from the requirements of Subpart J. For example, roof repairs or heating system improvements are likely to be exempt unless such activities disturb painted surfaces.

IMPLEMENTATION RESPONSIBILITIES:

Each Rural Development State Office will notify all HPG grantees that the LBP requirements for Rehabilitation contained in 24 CFR Part 35 apply to all HPG rehabilitation activities. The State Office will also verify if their State has more stringent requirements than the Federal requirements. The Agency must ensure and document that the HPG grantees have been notified of the LBP requirements and that they have done the following in relation to each rehabilitation activity:

| Amount of Rehabilitation assistance | Grantee is required to: |
|---|---|
| Is funding for rehabilitation less than or equal to \$5,000 (per dwelling unit, per year)? | <ul style="list-style-type: none"> • Provide LBP Pamphlet to Occupants (Subpart J, Section 35.910) and Subpart B, Section 35.125) • Test Paint on Surface(s) to be Disturbed or Presume LBP (Subpart J, Section 35.930(b)(1)) • Implement Safe Work Practices (Subpart J, Section 35.930(b)(2)) • Repair Disturbed Paint (Subpart J, Section 35.930(b)(2)) • Perform Clearance Test (Subpart J, Section 35.930(b)(3)) • Provide Notice to Occupants of Result (Subpart B, Section 35.125) |
| Is rehabilitation assistance greater than \$5,000 and less than or equal to \$25,000 (per dwelling unit, per year)? | <ul style="list-style-type: none"> • Provide LBP Pamphlet to Occupants (Subpart J, Section 35.910) and Subpart B, Section 35.125) • Test Paint on Surface(s) to be Disturbed or Presume LBP (Subpart J, Section 35.930(c)(1)) • Conduct Risk Assessment (Subpart J, Section 35.930(c)(2)) • Establish Interim Control (Subpart J, Section 35.930(c)(3)) • Perform a Clearance Examination (Subpart R, Section 35.1330(a)(3)) • Provide Notice to Occupants of Results (Subpart B, Section 35.125) |
| Is rehabilitation assistance greater than \$25,000 (per dwelling unit, per year)? | <ul style="list-style-type: none"> • Provide LBP Pamphlet to Occupants (Subpart B, Section 35.125 and Subpart J, Section 35.910) • Test Paint on Surface(s) to be Disturbed or Presume LBP (Subpart J, Section 35.930(d)(1)) • Conduct Risk Assessment (Subpart J, Section 35.930(d)(2)) • Abatement of All LBP Hazards Identified (Subpart J, Section 35.930(d)(3)) • Perform a Clearance Examination (Subpart R, Section 35.1340(a)) • Provide Notice to Occupants of Results (Subpart B, Section 35.125) |

In leverage situations where other Federal funds are used the HPG grantee and the other agency or organization should agree on who will be responsible for implementing the LBP regulation.

When completing the Civil Rights Impact Analysis, Form RD 2006-38, Rural Development employees will ensure compliance with LBP requirements by documenting on the form for the HPG grantee.

We encourage you to work closely with your State Lead-Based Paint Support Team and with each HPG grantee to ensure lead-based paint policies and procedures are effectively integrated into all rehabilitation activities. Should you have questions on this AN or on other lead-based paint issues, please call Tracee Lilly at (202) 720-9729, Sam Hodges at (202) 720-9647, or Brian LaFlamme at (202) 720-9656.